

AMENDED IN ASSEMBLY AUGUST 22, 2012

AMENDED IN ASSEMBLY JUNE 28, 2012

AMENDED IN ASSEMBLY JUNE 19, 2012

AMENDED IN SENATE APRIL 10, 2012

AMENDED IN SENATE MARCH 26, 2012

## **SENATE BILL**

**No. 1196**

**Introduced by Senator Hernandez  
(Coauthor: Senator Gaines)**

February 22, 2012

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An act to add *Part 2.7 (commencing with Section 57) to Division 1 of the Civil Code*, to add Section 1367.50 to the Health and Safety Code, and to add Section 10117.52 to the Insurance Code, relating to health care coverage.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1196, as amended, Hernandez. Claims data disclosure.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensing and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Insurance Commissioner. Except as specified, existing law prohibits a provider of health care, a health care service plan, or contractor from disclosing medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires the Secretary of Health and Human Services to make

available to qualified entities, as defined, specified claims data relating to Medicare in order to evaluate the performance of providers and suppliers. *Existing federal regulations require a qualified entity, as defined, to comply with specified requirements for Medicare claims data error correction.*

This bill would provide that no contract in existence or issued, amended, or renewed on or after January 1, 2013, between a health care service plan or a health insurer and a provider or supplier, as specified, shall prohibit, condition, or in any way restrict the disclosure of claims data related to health care services provided to specified individuals, to a qualified entity, as defined. ~~The bill would further require a qualified entity health care service plan or health insurer to comply with the requirements established by PPACA, as well as with any rules, regulations, and guidelines adopted pursuant to that law, as specified, relative to data obtained pursuant to these provisions all state and federal laws and implementing regulations for the protection of data privacy and security. Because a willful violation of these requirements by a health care service plan would constitute a crime, the bill would impose a state-mandated local program.~~

*This bill would further require a qualified entity, as defined, to comply with specified requirements for error correction for all claims data received, including data received from sources other than Medicare.*

Because a willful violation of the act by a health care service plan would constitute a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Part 2.7 (commencing with Section 57) is added
- 2     to Division 1 of the Civil Code, to read:

1 *PART 2.7. MEDICAL CLAIMS DATA ERROR CORRECTION*

2  
3 57. (a) *A qualified entity, as defined in Section 1395kk(e)(2)*  
4 *of Title 42 of the United States Code, that receives claims data*  
5 *from a health care service plan or health insurer shall comply with*  
6 *the requirements governing provider and supplier requests for*  
7 *error correction established under Section 401.717 of Title 42 of*  
8 *the Code of Federal Regulations for all claims data received,*  
9 *including data from sources other than Medicare.*

10 (b) *For purposes of this section, the following definitions apply:*

11 (1) *“Provider” means a hospital, a skilled nursing facility, a*  
12 *comprehensive outpatient rehabilitation facility, a home health*  
13 *agency, a hospice, a clinic, or a rehabilitation agency.*

14 (2) *“Supplier” means a physician and surgeon or other health*  
15 *care practitioner, or an entity that furnishes health care services*  
16 *other than a provider.*

17 **SECTION 1.**

18 SEC. 2. Section 1367.50 is added to the Health and Safety  
19 Code, to read:

20 1367.50. (a) No contract in existence or issued, amended, or  
21 renewed on or after January 1, 2013, between a health care service  
22 plan and a provider or a supplier shall prohibit, condition, or in  
23 any way restrict the disclosure of claims data related to health care  
24 services provided to an enrollee or subscriber of the health care  
25 service plan or beneficiaries of any self-funded health coverage  
26 arrangement administered by the health care service plan, to a  
27 qualified entity, as defined in Section ~~1395kk~~ 1395kk(e)(2) of Title  
28 42 of the United States Code. ~~A qualified entity shall comply with~~  
29 ~~all requirements established pursuant to Section 1395kk of Title~~  
30 ~~42 of the United States Code, and with any rules, regulations, and~~  
31 ~~guidelines adopted pursuant to PPACA, to ensure the privacy and~~  
32 ~~security of the data obtained under this section. A qualified entity~~  
33 ~~shall also comply with all rules, regulations, and guidelines adopted~~  
34 ~~pursuant to PPACA governing provider and supplier requests for~~  
35 ~~error correction for data obtained under this section. All disclosures~~  
36 ~~of data made under this section shall comply with all applicable~~  
37 ~~state and federal laws for the protection of the privacy and security~~  
38 ~~of the data, including, but not limited to, the federal Health~~  
39 ~~Insurance Portability and Accountability Act of 1996 (Public Law~~  
40 ~~104-191) and the federal Health Information Technology for~~

1 *Economic and Clinical Health Act, Title XIII of the federal*  
2 *American Recovery and Reinvestment Act of 2009 (Public Law*  
3 *111-5), and implementing regulations.*

4 (b) For purposes of this section, the following definitions apply:

5 (1) “PPACA” means the federal Patient Protection and  
6 Affordable Care Act (Public Law 111-148), as amended by the  
7 federal Health Care and Education Reconciliation Act of 2010  
8 (Public Law 111-152).

9 (2) “Provider” means a hospital, a skilled nursing facility, a  
10 comprehensive outpatient rehabilitation facility, a home health  
11 agency, a hospice, a clinic, or a rehabilitation agency.

12 (3) “Supplier” means a physician and surgeon or other health  
13 care practitioner, or an entity that furnishes health care services  
14 other than a provider.

15 ~~SEC. 2.~~

16 *SEC. 3.* Section 10117.52 is added to the Insurance Code, to  
17 read:

18 10117.52. (a) No health insurance contract in existence or  
19 issued, amended, or renewed on or after January 1, 2013, between  
20 a health insurer and a provider or a supplier shall prohibit,  
21 condition, or in any way restrict the disclosure of claims data  
22 related to health care services provided to a policyholder or insured  
23 of the insurer or beneficiaries of any self-insured health coverage  
24 arrangement administered by the insurer, to a qualified entity, as  
25 defined in Section ~~1395kk~~ 1395kk(e)(2) of Title 42 of the United  
26 States Code. ~~A qualified entity shall comply with all requirements~~  
27 ~~established pursuant to that section, and with any rules, regulations,~~  
28 ~~and guidelines adopted pursuant to PPACA, to ensure the privacy~~  
29 ~~and security of the data obtained under this section. A qualified~~  
30 ~~entity shall also comply with all rules, regulations, and guidelines~~  
31 ~~adopted pursuant to PPACA governing provider and supplier~~  
32 ~~requests for error correction for data obtained under this section.~~  
33 *All disclosures of data made under this section shall comply with*  
34 *all applicable state and federal laws for the protection of the*  
35 *privacy and security of the data, including, but not limited to, the*  
36 *federal Health Insurance Portability and Accountability Act of*  
37 *1996 (Public Law 104-191) and the federal Health Information*  
38 *Technology for Economic and Clinical Health Act, Title XIII of*  
39 *the federal American Recovery and Reinvestment Act of 2009*  
40 *(Public Law 111-5), and implementing regulations.*

(b) For purposes of this section, the following definitions apply:

(1) “PPACA” means the federal Patient Protection and Affordable Care Act (~~PPACA~~, ~~Public~~ (*Public* Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(2) “Provider” means a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, a home health agency, a hospice, a clinic, or a rehabilitation agency.

(3) “Supplier” means a physician and surgeon or other health care practitioner, or an entity that furnishes health care services other than a provider.

~~SEC. 3.~~

*SEC. 4.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.